

### **REMARKS**

Claims 1-13 and 18-22 are pending, and claims 14-17 and 23 are withdrawn. The Examiner's indication that claims 3-8 are allowable is noted with appreciation.

Claims 1, 2, 18 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. Publ. No. 2002/0048621 to Boyd et al. in view of U.S. Patent Nos. 6,758,130 to Sargent and 6,759,072 to Gutwein. It is respectfully submitted that claims 1, 2, 18 and 19 are not unpatentable over Boyd in view of Sargent and Gutwein.

With respect to independent claim 1, and claims 2, 18 and 19 dependent therefrom, the Office action, page 3, alleges that Gutwein discloses "a user interface for initiating an operating cycle of a beverage preparation system, the cycle being independent of a beverage type being dispensed by the system." The Office action, page 4, further cites to col. 20, lines 56-63 of Gutwein. The cited passage of Gutwein does not disclose presenting only one option for a consumer to choose from. Instead, Gutwein expressly discloses that "[t]he customization director can also display express **formulations** which enable the consumer to **select** the express formulation and all other decisions are automatically completed by the system." (Emphasis added.) Thus, in the cited passage relied upon by the Office action, multiple formulations are presented for the consumer to select among. This is the opposite of that recited in claim 1, where there is "a user interface for initiating an operating cycle independent of the beverage type being dispensed," e.g., there is no selection of beverage type required by the user to be input into the system.

Moreover, Gutwein teaches away from the system of claim 1, as discussed in detail in the prior response. Given that Gutwein does not disclosed the claimed user interface, and that it teaches away from such a user interface, it is respectfully submitted that claims 1, 2, 18 and 19 are not unpatentable over the applied references.

Claims 9-13 and 20-22 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Boyd. It is respectfully submitted that claims 9-13 and 20-22 are not anticipated by Boyd.

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Boyd does not disclose a memory for storing information after dispensing a beverage from the cartridges about operating characteristics used by the beverage preparation machine to dispense the beverage from the beverage cartridges, as recited in claim 9. Boyd only discloses a memory or data storage 150 containing information about packets 10. (See Boyd, ¶ 33.) More specifically, Boyd discloses merely reading from the data storage, and does not disclose writing to the data storage, as is required by the recited memory of claim 9 for storing information after dispensing a beverage from the cartridges. There is no disclosure in Boyd of altering its data storage 150 based upon operating characteristics of dispensed beverages.

For the foregoing reasons, reconsideration of claims 1, 2 and 9-13 and allowance of claims 1-13 and 18-23 are respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

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